

# **EXHIBIT 5**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

HOMEVESTORS OF AMERICA, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 22-1583-RGA
	)	
WARNER BROS. DISCOVERY, INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF'S THIRD AMENDED INITIAL DISCLOSURES**

Plaintiff HomeVestors of America, Inc. ("HomeVestors") provides the following third amended initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, based on the information reasonably available to HomeVestors as of the date of these disclosures.

- A. The name and, if known, the address and telephone number of each individual likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

Larry Goodman Chief Executive Officer  c/o Holland & Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700	Mr. Goodman is the CEO of HomeVestors and has knowledge about HomeVestors' business, operations, and marketing; HomeVestors' trademarks and intellectual property; advertising and sales of goods and services under the UGLY HOUSES marks; potential consumer confusion; and dilution of the UGLY HOUSES marks.
David Hicks Former Chief Executive Officer  c/o Holland & Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700	Mr. Hicks is the former CEO of HomeVestors and has knowledge about HomeVestors' business, operations, and marketing; HomeVestors' trademarks and intellectual property; advertising and sales of goods and services under the UGLY HOUSES marks; potential consumer confusion; dilution of the UGLY HOUSES marks; and discussions with representatives of HGTV.

<p>Bonnie DePasse Former General Counsel</p> <p>c/o Holland &amp; Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Ms. DePasse is the former General Counsel of HomeVestors and has knowledge about HomeVestors' allegations in the Complaint; the UGLY HOUSES Marks (as that term is defined in the Complaint), including their registration, use, fame, goodwill, licensing, and enforcement activities; HomeVestors' advertising and sales of goods and services under the UGLY HOUSES marks; potential consumer confusion; and dilution of the UGLY HOUSES marks.</p>
<p>Marco Icaza</p> <p>c/o Holland &amp; Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Mr. Icaza is a HomeVestors franchisee and has knowledge of interactions with a producer associated with HGTV about a potential collaboration.</p>
<p>Joseph Isaac Former Chief Financial Officer</p> <p>c/o Holland &amp; Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Mr. Isaac was the CFO of HomeVestors and has knowledge about HomeVestors' business, operations, and marketing; advertising and sales of goods and services under the UGLY HOUSES marks; HomeVestors' finances; and costs and damages associated with WBD's unlawful actions.</p>
<p>Josh Gorena Controller</p> <p>c/o Holland &amp; Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Mr. Gorena is the Controller of HomeVestors and has knowledge about HomeVestors' business, operations, and marketing; advertising and sales of goods and services under the UGLY HOUSES marks; HomeVestors' finances; and costs and damages associated with WBD's unlawful actions.</p>
<p>Anthony Lowenberg General Counsel</p> <p>c/o Holland &amp; Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Mr. Lowenberg is the General Counsel of HomeVestors and has knowledge about HomeVestors' allegations in the Complaint; the UGLY HOUSES Marks (as that term is defined in the Complaint), including their registration, use, fame, goodwill, licensing, and enforcement activities; HomeVestors' advertising and sales of goods and services under the UGLY HOUSES marks; potential consumer confusion; and dilution of the UGLY HOUSES marks.</p>

<p>Megan Dredla Hoyt Deputy General Counsel</p> <p>c/o Holland &amp; Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Ms. Hoyt is the Deputy General Counsel of HomeVestors and has knowledge about HomeVestors' allegations in the Complaint; the UGLY HOUSES Marks (as that term is defined in the Complaint), including their registration, use, fame, goodwill, licensing, and enforcement activities; HomeVestors' advertising and sales of goods and services under the UGLY HOUSES marks; potential consumer confusion; and dilution of the UGLY HOUSES marks.</p>
<p>Jo Rivera Owner, Snapshot Real Estate Solutions, Inc.</p> <p>c/o Holland &amp; Knight LLC 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Mr. Rivera is the owner of a HomeVestors franchise with a territory that includes Delaware and has knowledge regarding HomeVestors' business activities in the state, including marketing, advertising practices, and lead generation.</p>
<p>Rob J. Sturrock Owner, Sturrock-Hotz DA Group, LLC</p> <p>c/o Holland &amp; Knight LLC 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Mr. Sturrock is a development agent for HomeVestors who has knowledge regarding HomeVestors' business model, franchisees' operations, marketing, advertising practices, and lead generation.</p>
<p>Dana Trexler Managing Director, Stout</p> <p>c/o Holland &amp; Knight LLC 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>Ms. Trexler is an expert in quantifying damages in intellectual property and complex commercial disputes and may provide expert opinions regarding damages in this case, including, but not limited to, disgorgement of WBD's profits for the show UGLIEST HOUSE IN AMERICA.</p>
<p>Corporate Representative(s) of HomeVestors</p> <p>c/o Holland &amp; Knight LLP 1722 Routh Street, Suite 1500 Dallas, TX 75201 214-969-1700</p>	<p>HomeVestors' allegations in the Complaint; the UGLY HOUSES Marks (as that term is defined in the Complaint), including their registration, use, fame, goodwill, licensing, and enforcement activities; HomeVestors' advertising and sales of goods and services under the UGLY HOUSES marks; potential consumer confusion; and dilution of the UGLY HOUSES marks.</p>

<p>Calise Partners, LLC d/b/a Imaginity and AdVestors</p> <p>c/o Haynes &amp; Boone, LLP 2801 N. Harwood Street Suite 2300 Dallas, TX 75201 214.651.5000</p>	<p>The UGLY HOUSES Marks (as that term is defined in the Complaint), including their use, fame, and goodwill; HomeVestors' advertising and sales of goods and services under the UGLY HOUSES marks; potential consumer confusion; dilution of the UGLY HOUSES marks; and discussions with Big Fish Entertainment regarding coordination/collaboration regarding HGTV's forthcoming Ugliest House in America show.</p>
<p>Charlie Calise Calise Partners, LLC d/b/a Imaginity and AdVestors</p> <p>c/o Steven Callahan Charhon Callahan Robson &amp; Garza, PLLC 3333 Lee Parkway, Suite 460 Dallas, Texas 75219 (469) 587-7240</p>	<p>Mr. Calise has knowledge about the UGLY HOUSES Marks (as that term is defined in the Complaint), including their use, fame, and goodwill; and HomeVestors' marketing and advertising under the UGLY HOUSES marks.</p>
<p>Lea Tyner Calise Partners, LLC d/b/a Imaginity and AdVestors</p> <p>c/o Steven Callahan Charhon Callahan Robson &amp; Garza, PLLC 3333 Lee Parkway, Suite 460 Dallas, Texas 75219 (469) 587-7240</p>	<p>Ms. Tyner has knowledge about the UGLY HOUSES Marks (as that term is defined in the Complaint), including their use, fame, and goodwill; and HomeVestors' advertising under the UGLY HOUSES marks.</p>
<p>Ariel Herr Calise Partners, LLC d/b/a Imaginity and AdVestors</p> <p>c/o Steven Callahan Charhon Callahan Robson &amp; Garza, PLLC 3333 Lee Parkway, Suite 460 Dallas, Texas 75219 (469) 587-7240</p>	<p>Ms. Herr has knowledge about the UGLY HOUSES Marks (as that term is defined in the Complaint), including their use, fame, and goodwill; HomeVestors' advertising under the UGLY HOUSES marks; potential consumer confusion; dilution of the UGLY HOUSES marks; and discussions with Big Fish Entertainment regarding coordination/collaboration regarding HGTV's forthcoming Ugliest House in America show.</p>

Big Fish Entertainment  101 Hudson Street, 40th Floor Jersey City, NJ, 07302	Development of the Ugliest House in America television show; discussions with HomeVestors regarding coordination/collaboration regarding HGTV's forthcoming Ugliest House in America show; Defendant's role in the development of the show, selection of the name, and discussions with HomeVestors.
Corporate Representative(s) of Defendant	Development of the Ugliest House in America television show; selection of the name of the show; contest(s) associated with the show; solicitation of homeowners as contestants for the show; discussions/coordination with Big Fish Entertainment regarding the development of the show; attempted coordination/collaboration with HomeVestors regarding HGTV's forthcoming Ugliest House in America show; Defendant's profits associated with the show and other uses of the mark UGLIEST HOUSE IN AMERICA; and Defendant's defenses.
Tarek El Moussa and his companies, including Tarek Buys Houses LLC	Mr. El Moussa and his companies, including Tarek Buys Houses LLC, has knowledge of HomeVestors and about the UGLY HOUSES Marks (as that term is defined in the Complaint), and knowledge about shows on HGTV, including the show he hosts called Flip or Flop.
Pace Morby and his companies, including NRE 1, LLC (d/b/a/ SubTo)	Mr. Morby is a former HomeVestors franchisee and current cohost of the A&E TV series, Triple Digit Flip, and runs a real estate investing community called SubTo. Mr. Morby and his companies have knowledge of HomeVestors and about the UGLY HOUSES Marks (as that term is defined in the Complaint), and knowledge about home remodeling/flipping shows, including Triple Digit Flip.

HomeVestors reserves the right to identify other persons it later determines are likely to have discoverable information and that it may use to support its claims. And HomeVestors additionally reserves the right to call any witnesses identified in Defendant's initial disclosures.

**B. A copy of, or a description by category and location of, all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.**

1. Documents regarding HomeVestors' federal registrations and maintenance filings with the USPTO for the UGLY HOUSES Marks.
2. Documents regarding the use of the UGLY HOUSES Marks, including first use.
3. Documents regarding the goods and services offered by HomeVestors using the UGLY HOUSES Marks.
4. Documents regarding Defendant's infringing activities.
5. Documents regarding advertising and promoting the UGLY HOUSES Marks.
6. Documents regarding advertising, promoting, and use of the UGLIEST HOUSE OF THE YEAR Marks.
7. Documents regarding discussions between HomeVestors and Big Fish Entertainment regarding potential coordination regarding the forthcoming Ugliest House in America show.
8. Documents bearing on the facts and defenses alleged in the Complaint and any subsequently pleadings.

Listing these documents shall not constitute a waiver of HomeVestors' right to object to the production or disclosure of any information or any documents on any ground.

HomeVestors reserves the right to identify other documents disclosed during discovery or documents it subsequently determines are relevant to the disputed facts in this case.

**C. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.**

HomeVestors seeks the following categories of damages: Defendant's profits, HomeVestors' actual damages, and reasonable royalties owed to HomeVestors; treble damages; and statutory damages. HomeVestors also seeks to recover its reasonable attorneys' fees and costs

and all available remedies requested in its pleadings. Discovery has only just begun. Thus, HomeVestors has not calculated its precise damages at this time, and reserves its right to supplement these disclosures.

**D. For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

None.

OF COUNSEL:  
HOLLAND & KNIGHT LLP  
Justin S. Cohen  
Justin.Cohen@hklaw.com  
Dina W. McKenney  
Dina.McKenney@hklaw.com  
One Arts Plaza  
1722 Routh St., Suite 1500  
Dallas, TX 75201  
214-969-1700

Cynthia A. Gierhart  
HOLLAND & KNIGHT LLP  
Cindy.Gierhart@hklaw.com  
800 17th Street NW, Suite 1100  
Washington, DC 20006

Dated: July 26, 2024

/s/ Kelly E. Farnan  
Kelly E. Farnan (#4395)  
Christine D. Haynes (#4697)  
Richards, Layton & Finger, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
(302) 651-7700  
farnan@rlf.com  
haynes@rlf.com

*Attorneys for Plaintiff  
HomeVestors of America, Inc.*



**CERTIFICATE OF SERVICE**

I hereby certify that on July 26, 2024, true and correct copies of the foregoing document were served, via e-mail, on the following:

**BY E-MAIL**

Michael J. Flynn  
Jennifer Ying  
Morris, Nichols, Arsht & Tunnell LLP  
1201 N. Market Street  
P. O. Box 1347  
Wilmington, DE 19801

**BY EMAIL**

Aaron J. Moss  
Joshua Geller  
Greenberg Glusker Fields Claman &  
Machtinger LLP  
2049 Century Park East  
Suite 2600  
Los Angeles, CA 90067

/s/ Christine D. Haynes  
Christine D. Haynes (#4697)  
haynes@rlf.com